



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,833	10/20/2003	Andrew T. Hecht	874.1001US	6197
23280	7590	10/18/2007		
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			EXAMINER BAIRD, EDWARD J	
			ART UNIT 4137	PAPER NUMBER
			MAIL DATE 10/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/689,833

Applicant(s)

HECHT, ANDREW T.

Examiner

Ed Baird

Art Unit

4137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 and 40-73 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-38 and 40-73 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-14, and 62-73, drawn to a method of matching buying and selling orders in real estate sales, classified in class 705 subclass 37.
 - II. Claims 15, 16 and 21, drawn to a method of trading futures contracts in real estate, classified in class 705, subclass 37.
 - III. Claims 17, 23, and 33, drawn to a method of providing indices in transaction values in real estate, classified in class 705, subclass 37.
 - IV. Claims 18-20, 22, 24-32, and 34-38, drawn to a method of providing indices in lease values in real estate, classified in class 705, subclass 37.
 - V. Claims 40 and 41 drawn to a method of operating an exchange, classified in class 705, subclass 37.
 - VI. Claims 42-61 drawn to a method of matching buying and selling orders for hotel room rates and occupancy, classified in class 705, subclass 37.
2. The inventions are distinct, each from the other because of the following reasons:
3. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination, Invention I, as claimed does not require the particulars of the subcombination, Invention II, as claimed because Invention I is directed to a method of matching buying and selling orders in real estate sales. The subcombination, Invention II is directed to a method of trading futures contracts in real estate.

Art Unit: 4137

4. Inventions I and III are related as combination and subcombination. In the instant case, the combination, Invention I, as claimed does not require the particulars of the subcombination, Invention III, as claimed because Invention I is directed to a method of matching buying and selling orders in real estate sales. The subcombination, Invention III is directed to a method of providing indices in transaction values in real estate.

5. Inventions I and IV are related as combination and subcombination. In the instant case, the combination, Invention I, as claimed does not require the particulars of the subcombination, Invention IV, as claimed because Invention I is directed to a method of matching buying and selling orders in real estate sales. The subcombination, Invention IV is directed to a method of providing indices in lease values in real estate.

6. Inventions I and V are related as combination and subcombination. In the instant case, the combination, Invention I, as claimed does not require the particulars of the subcombination, Invention V, as claimed because Invention I is directed to a method of matching buying and selling orders in real estate sales. The subcombination, Invention V is directed to a method of operating an exchange.

7. Inventions I and VI are related as combination and subcombination. In the instant case, the combination, Invention I, as claimed does not require the particulars of the subcombination, Invention VI, as claimed because Invention I is directed to a method of matching buying and selling orders in real estate sales. The subcombination, Invention VI is directed to a method of matching buying and selling orders for hotel room rates and occupancy.

8. Inventions II and III are related as combination and subcombination. In the instant case, the combination, Invention II, as claimed does not require the particulars of the subcombination, Invention III, as claimed because Invention II is directed to a method of trading futures contracts

Art Unit: 4137

in real estate. The subcombination, Invention III is directed to a method of providing indices in transaction values in real estate.

9. Inventions II and IV are related as combination and subcombination. In the instant case, the combination, Invention II, as claimed does not require the particulars of the subcombination, Invention IV, as claimed because Invention II is directed to a method of trading futures contracts in real estate. The subcombination, Invention IV is directed to a method of providing indices in lease values in real estate.

10. Inventions II and V are related as combination and subcombination. In the instant case, the combination, Invention II, as claimed does not require the particulars of the subcombination, Invention V, as claimed because Invention II is directed to a method of trading futures contracts in real estate. The subcombination, Invention V is directed to a method of operating an exchange.

11. Inventions II and VI are related as combination and subcombination. In the instant case, the combination, Invention II, as claimed does not require the particulars of the subcombination, Invention VI, as claimed because Invention II is directed to a method of trading futures contracts in real estate. The subcombination, Invention VI is directed to a method of matching buying and selling orders for hotel room rates and occupancy.

12. Inventions III and IV are related as combination and subcombination. In the instant case, the combination, Invention III, as claimed does not require the particulars of the subcombination, Invention IV, as claimed because Invention III is directed to a method of providing indices in transaction values in real estate. The subcombination, Invention IV is directed to a method of providing indices in lease values in real estate.

Art Unit: 4137

13. Inventions III and V are related as combination and subcombination. In the instant case, the combination, Invention III, as claimed does not require the particulars of the subcombination, Invention V, as claimed because Invention III is directed to a method of providing indices in transaction values in real estate. The subcombination, Invention V is directed to a method of operating an exchange.

14. Inventions III and VI are related as combination and subcombination. In the instant case, the combination, Invention III, as claimed does not require the particulars of the subcombination, Invention VI, as claimed because Invention III is directed to a method of providing indices in transaction values in real estate. The subcombination, Invention VI is directed to a method of matching buying and selling orders for hotel room rates and occupancy.

15. Inventions IV and V are related as combination and subcombination. In the instant case, the combination, Invention IV, as claimed does not require the particulars of the subcombination, Invention V, as claimed because Invention IV is directed to a method of providing indices in lease values in real estate. The subcombination, Invention V is directed to a method of operating an exchange.

16. Inventions IV and VI are related as combination and subcombination. In the instant case, the combination, Invention IV, as claimed does not require the particulars of the subcombination, Invention V, as claimed because Invention IV is directed to a method of providing indices in lease values in real estate. The subcombination, Invention VI is directed to a method of matching buying and selling orders for hotel room rates and occupancy.

17. Inventions V and VI are related as combination and subcombination. In the instant case, the combination, Invention V, as claimed does not require the particulars of the subcombination,

Art Unit: 4137

Invention VI, as claimed because Invention V is directed to a method of operating an exchange. The subcombination, Invention VI is directed to a method of matching buying and selling orders for hotel room rates and occupancy.

18. The examiner has required restriction between combination and subcombination inventions. Where applicant elects a subcombination, and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

19. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

20. Effective November 1, 2007, if applicant wishes to present more than 5 independent claims or more than 25 total claims in an application, applicant will be required to file an examination support document (ESD) in compliance with 37 CFR 1.265 before the first Office action on the merits (hereafter "5/25 claim threshold"). See Changes to Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications, 72 Fed. Reg. 46715 (Aug. 21, 2007), 1322 Off. Gaz. Pat. Office 76 (Sept. 11, 2007) (final rule). The changes to 37 CFR 1.75(b) apply to any pending applications in which a first Office action on the merits (FAOM) has not been mailed before November 1, 2007. Withdrawn claims will not be taken into account in determining

Art Unit: 4137

whether an application exceeds the 5/25 claim threshold. For more information on the final rule, please see <http://www.uspto.gov/web/offices/pac/dapp/opla/presentation/clmcontfinalrule.html>.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571) 270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Akm Ullah can be reached on (571) 272-2361. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ed Baird
Assistant Patent Examiner
571-270-3330


AKM ULLAH
SUPERVISORY PATENT EXAMINER